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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,873	12/29/2005	Josef Lutz	AT03 0037 US1	6752
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NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131				
EXAMINER				
LE, HUYEN D				
ART UNIT		PAPER NUMBER		
2614				
NOTIFICATION DATE		DELIVERY MODE		
02/05/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary

Application No.

10/562,873

Applicant(s)

LUTZ, JOSEF

Examiner

HUYEN D. LE

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/11/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Drawings

2. The drawings are objected to because the blocks in figure 11 should be labeled.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office

action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 34 in figure 11 is not mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States,
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2 and 7-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Croft, III et al. (US 6,201,874).

Regarding claims 1, 7, 9, 13, 18, 19, 23, 24 and 26, Croft et al. teaches an audio speaker device comprising a chamber that comprises chamber walls and at least one medium opening for the audio medium stream (figures 1, 2, 3, 15, 16A, 16B, 17, 18A), a diaphragm (28, 52, 152, 162, 166, 172, 182) to generate the audio medium stream, an audio driver circuit (figures 1, 18A) responsive to electrical drive signals corresponding to the audio data for driving the diaphragm to impose a deformation on the diaphragm via mechanical tension to generate audible sound corresponding to the audio data in an active operating state of the device (col. 9, lines 6-23). As shown in the drawings, the diaphragm is arranged substantially untensioned in the chamber

between the chamber walls in an inactive operating state of the device (also see col. 4, lines 46-59).

Regarding claims 2 and 8, Croft et al. teaches the drive comprising the electrodes that are arranged on the chamber walls and a control signal source, and containing an electromechanical drive element as claimed (figures 1, 2, 3, col. 3, lines 52-67 through col. 4, lines 1-10, and col. 5, lines 3-16).

Regarding claim 10, Croft et al. shows the chamber comprising at least two medium openings as claimed (figure 1).

Regarding claim 11, Croft et al. shows the diaphragm having an at least substantially constant thickness as claimed (figures 1, 5).

Regarding claims 9, 12 and 14, Croft et al. teaches the device having the chamber that is of substantially cuboidal construction and comprises two end walls lying opposite one another, the diaphragm being fixed with two opposing end regions to the end walls and the drive as claimed (figures 1, 2, 15, 16A, and col. 4, lines 55-59).

Regarding claims 15 and 16, Croft et al. shows the diaphragm being fixed with one end region and an opposite end region and comprising a transition portion as claimed (figures 1, 2, 15, 16A, and col. 4, lines 55-59).

Regarding claim 17, Croft et al. teaches the medium openings provided at both ends of the chamber as claimed (figures 1, 2, 15, 16A, 16B).

Regarding claim 20, as broadly claimed, the loudspeaker device of Croft et al. is provided as pump device for the medium stream when the diaphragm is in an active state (figure 1 and see col. 3, lines 63-67 through col. 4, lines 1-10, and col. 9, lines 6-23).

Regarding claim 21, as broadly claimed, Croft et al. shows a number of chambers provided in the device as claimed (figure 13).

Regarding claim 22, Croft et al. teaches the insulating layer as claimed (col. 5, lines 33-39).

Regarding claim 25, Croft et al. teaches the electrodes that are separate from and not in contact with the diaphragm as claimed (col. 3, lines 52-55, col. 4, lines 55-59 and col. 5, lines 3-16).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Croft, III et al. (US 6,201,874).

Regarding claims 3-6, Croft et al. teaches the diaphragm comprising a conductive layer for the electrostatic transducer. Croft et al. does not specifically teach the diaphragm comprising a metal foil or piezoelectric material as claimed in claims 3-6. However, Croft et al. does not restrict any material for the conductive layer, and providing a metal foil made of dielectric material or the piezoelectric material for the diaphragm is well known in the art.

Therefore, it would have been obvious to one skilled in the art to provide any conductive material such as the metal foil made of dielectric material, or the piezoelectric material and the

electrode for the diaphragm of Croft et al. for an alternate choice and depending on the desired frequency characteristics.

Response to Arguments

8. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/HUYEN D. LE/
Primary Examiner, Art Unit 2614

HL
January 30, 2010